(1) Supreme Court, U.S.
FILED

No. 01 429 JUL 02 2001

OFFICE OF

In The

Supreme Court of the United States

CLINTON M. TULLIS and
MARGARET L. TULLIS

Petitioners

v.

Law Offices of LEE, SMART, et al, P.S. Inc.,
Law Office of WEST and COLLINS P.S.

Respondents

On Petition For Writ Of Certiorari
To The Ninth Circuit Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

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INTRODUCTION

Petitioner's were trespassed upon by a Licensed Contractor during an improper Mechanical Installation which endangered Petitioners health and lives.

The Contractors and their Insurance Company chose to hire a Law Firm to avoid responsibility of cleaning up the hazards, Petitioners were subjected to.

The original law suit in the State Courts was due to the violations of a contractor: "Nor Pac Heating and Air-conditioning Inc." of Auburn, Washington.

The Law Firm of West and Collins and the Law Firm of Lee, Smart, Cook, Martin and Patterson, et al, P.S. Inc., Appeared to have no legal remedy, so successfully chose to represent the Contractor and the Insurance Company ; by using perjured documents, to gain success through the Washington State Courts; Which should be more than adequate to entertain, a completely separate Law Suit against the Law Firms, et al; Having no obligations or benefits to the Law Firms Former Clients; As they are not a party to this case.

QUESTIONS PRESENTED

1. Why hasn't the Federal Courts given a "Four Corners" observation of this case?
2. Why hasn't the Federal Courts given "Judicial Notice" of this case?
3. Did the Federal Courts Properly survey, their authorities applied to their considerations?
4. Whether the Federal Courts erred in denying the Class Action suit?

QUESTIONS PRESENTED-Continued

5. Why hasn't the District Court and the Ninth Circuit Panel, allowed Petitioners discovery, for authenticity of Administrative Authorities answers, to Respondents "false testimony"?

6. Did the Ninth Circuit Panel bypass issues formerly scorned by the Ninth Circuit Court Of Appeals?

7. Why didn't the District Court Judge, allow Petitioners, a change of venue?

8. Would there be a case against the Respondents, if they had not falsified and assisted in falsifying documents presented to the Lower Courts?

9. Is assisting fabrication of False Documents and submission to a Court during Trial, considered perjury?

10. Is it perjury for an attorney, to assist his client to concoct a False Document during discovery?

11. Is naming a Document that is false, within the "Motion For Order", to influence a Court decision, to be condoned by the Courts?

12. Should all Court participants have equal status to representation, free of bias?

13 Whether a Superior Court judge deserves increased status; whom, at a hearing, only chastised Tullis': to stay out of law, and he would stay out of Real Estate?

A. Did this deny petitioners compulsory process of law under the 6th and 14th Amendments?

14. Whether the Panel erred in honoring the District Court dismissal of the Federal Civil Rights and Environmental claims; proclaimed as Federal Laws, Backed by Constitutional Amendments?

QUESTIONS PRESENTED-Continued

15. Is Appellate Court decision, **Scare Decisis:** (very slow to interfere with decisions of lower courts and more often would decide otherwise were the question a new one)?
16. Whether the District Court erred, declaring Tullis's Cause; a continuance of the State Courts decisions?
17. Whether U.S. Citizens are expected to accept abuse of Established Laws, by Attorneys and Officials, as a Standard, Accepted Practice; Leaving the Public "no recourse" for Injuries and Losses?

PARTIES TO PROCEEDING

CLINTON M. TULLIS and MARGARET L. TULLIS and the Marital Community Comprised Thereof

Petitioners

vs.

THE LAW OFFICES OF LEE, SMART, COOK, MARTIN AND PATTERSON P.S. Inc.;

CREIGHTON S. HUTCHINS and "JANE DOE HUTCHINS" and the Marital Community Comprised Thereof;

KAREN A. KALZER and "JOHN DOE KALZER" and the Marital Community Comprised Thereof;

RORY W. LEID III and "JANE DOE LEID" and the Marital Community Comprised Thereof;

THE LAW OFFICE OF WEST and COLLINS P.S.;

ROBERT E. WEST and "JANE DOE WEST" and the Marital Community Comprised Thereof.

Respondents

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DERIVITIVE TORT: An action in tort based on criminal conduct of defendant which resulted in injury to plaintiff, and for which injury plaintiff seeks compensation. Action is distinct from criminal prosecution which may result from same conduct by defendant. The term also applies to liability imposed on a principle by his agent.

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OPINION BELOW

The unpublished opinion of the United States Court of Appeals, Ninth Circuit is contained in the Appendix (hereinafter "A") at pages 1-2.

JURISDICTION

The judgment to be reviewed was entered on March 29, 2001. A-1. Tullis's petition for rehearing was denied on May 25, 2001. A-3. Jurisdiction is conferred on this Court by Titles 28 and 42 U.S.C.A. as follows:

1. 28 U.S.C.A. Sec 1331 (1976 Fed., Supp V) Provides: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States".

2. 28 U.S.C.A. Sec. 1343 confers jurisdiction on the district courts for civil rights cases as follows: Sec. 1343. Civil Rights and elective franchises: (a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or aid in preventing wrongs mentioned in

section 1985 of Title 42 which he had knowledge were about to occur or power to prevent;
(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for protection of civil rights,...

42 U.S.C.A. Sec. 1985 Conspiracy to interfere with civil rights provides as follows: (2) Obstructing Justice, intimidating party, witness, or juror: If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, due course of justice in any State or Territory, with intent to deny any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws: (3) Depriving persons of rights or privileges: In any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth , Sixth, Seventh and Fourteenth Amendments to the United States Constitution.

(1). The Fifth Amendment:

No person shall be.... deprived of life, liberty, or property, without due process of law.

(2). The Sixth Amendment:

Compulsory Process Clause: The right to offer witnesses, and to compel their attendance, if necessary; The right to present a defense; the right to present the defendants version of the facts as well as the prosecution's to the jury, so it may decide where the truth lies;

The 6th Amendment guarantees will be violated by unfair treatment of the defendant in presenting his case: If a judge harshly admonishes the defense or defense witnesses and no others, compulsory process has been violated: Webb v. Texas (1972)

(3). The Seventh Amendment:

In suits at common law, where the value is more than twenty dollars, right to trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than to the rules of common law(a). 7th Amendment provides a right to a jury trial in civil suits, a guarantee so important to the judicial system that any curtailment to the right of trial by jury has been closely examined by the court. 7th is similar to the sixth Amendment in this respect but does not apply to criminal cases and the guarantee applies to Federal but not to State Courts. This right also protects citizens from the oppression of

judges.

(4). The Fourteenth Amendment:
Provides that: "No State shall deny to any person within its jurisdiction, the equal protection of the laws." In fact, the courts have held that : A" Pro Se, non-lawyer plaintiff is held to a lesser standard (in terms of requirements for the presentation of his or her case) *Ferri v. Fox, Rothschild, O'Brien & Frankel, 690 F. Supp. 400 (E.D.Pa. 1988.)*
Its clause protecting citizens from state infringement on their privileges and immunities, guaranteeing all persons equal protection under the laws and due process, or fairness in the application of those laws. "Every Important Bill Of Rights" has been incorporated into the Fourteenth Amendment.

STATEMENT OF THE CASE

1. Tullis's were trespassed upon during an illegal installation of a Gas Furnace and Gas Water Heater by a licensed, Washington State Contractor on 12/02/1999.
2. The Performance endangered Petitioners health and lives, when the Contractors carelessly knocked considerable Mold and Soot impregnated Fiberglass, down from the old Loose Insulation in the attic, into the interior of Tullis's furnace being assembled in pieces.

Violation of Environmental Protection Agency Act.
The action taken by Attorney's in this case, enabled their clients to violate at least two Federal Statutes: (1) The Federal Clean Air Act and (2) the Federal

Comprehensive Environmental Response Compensation and Liability Act.: CERCLA, as amended by SARA 42 U.S.C.A.99601 et seq. The latter provides for remedies for specified environmental injuries caused by a release of a hazardous substance. Hazardous substance is defined By CERCLA to include any substance designated pursuant to Section 112 of CERCLA and includes Airborne Particles which are a known carcinogen.

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3. Upon completion of the installation; The assemblers turned on the furnace. The furnace fans shattered the Fiberglass; Blowing the Particles throughout the heat system and polluting everything within Tullis's house.
4. Tullis's called the Contracting Company "Nor Pac", whom sent a representative to the house on Saturday, December 4, 1993 and informed Tullis's after observation of the pollution, that someone would be out on Monday to cure the problem, On Monday, December 6, 1993; The salesman came out with a small hand vac and cleaned a small area around each heat duct, then informed Tullis's, that the new electronic air purifier would take care of the rest of the problem. He didn't consider that it might take years to circulate throughout the house before entering the system.
5. Upon the next inquiry; The Installing Contractors secretary informed Tullis's; Quote: The cleanup was too much of a mess for them, they were not equipped for such tasks, and the Secretary recommended Serve Pro, of whom she explained, her Company sometimes used. It was now obvious that the Company was not intending to do anything about the contamination.

The indoor Air Quality (IAQ) Service of the U.S. Environmental Protection Agency, refers to Man Made Fibers such as Fiberglasas Particles as Respirable Suspended Particles (RSP), that are hazardous because: If they are small enough to become air-borne, the larger particles above 15 microns will be filtered out by your nose; the microns of 15 or less may enter your lungs of which those under 2 microns can penetrate the small air sacs of your lungs. These particles can remain for months and can cause eye, nose and throat irritation, respiratory infections, bronchitis and lung cancer, CERCLA does not require any particular concentration level, so "any traceable amount of a hazardous substance" is sufficient for finding a release.

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6. It took eight days to clean the house by Serve Pro, whom also used the services of a Furnace Cleaning Company, and of a Laundry and Dry-Cleaning Firm: "Leather Care". It took three weeks to clean all of the fabrics. Leather Care obtained a large Truck Load of Tullis Fabrics and upon returning them, explained: It was a real task to remove the contamination of the mold and soot impregnated fiberglass particles.
7. The Tullis's had to vacate the premises for eight days with only the clothes they were wearing.
8. Robert E. West, false, written statement to the Court, (quote): Their Client, Nor Pac Heating and Air-conditioning Inc., completed its work in a good and workmanlike manner.

Violation of FRCP Rule 11:

(b) Representation to the court. By presenting to the court (whether by signing, filing, submitting, or later, advocating) a pleading, written motion, or other paper. An attorney or unrepresented party is certifying that to the best of the persons knowledge, information and belief formed after an inquiry reasonable under the circumstances; (1) It is not being presented for any improper purpose, such as to harass, or to cause unnecessary delay or needless increase in cost of litigation; (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for extension, modification, or reversal of existing law.

9. Three days after returning to the house, Tullis's found additional Fiberglass coming up through the heat ducts, again contaminating the entire residence.
10. The Cleaning Company was again called and ordered the Furnace Cleaning Company to return to complete his job. They then proceeded to investigate the immediate cause of contamination after their professional cleaning, with a huge powerful Truck Vacuum, of which they denied being questionable.
11. They found that, Nor Pac Heating & Air-Conditioning Inc.,"The Original Contractor" had gone under the house to insert a new short line into the family room and had carelessly broken Two "hot air" duct line connections, which were now sucking the fiberglass wrapped insulation, from off the "Hot Air Ducts". Tullis's again had to leave for a weeks cleaning.
12. On December 23, 1993, Tullis clothing, curtains, etc.

were returned; 21 days after the Installations.

13. Tullis's could not afford to do as suggested by E.P.A. confirmed, Dr. Richard Knight (Whom received $400.00 for his testing), and reccommended to seal the walls and ceiling by repainting the house and replace the carpeting or install hardwood. The house had been painted during October and November of 1991 and the large front room "Expensive" carpet, had been installed in November, 1991. The balance of the Carpeting was like new in 1991; just after Tullis's purchased the home. Consequently, Tullis's carefully, constantly vacuumed the carpeting and cleaned the premises.

14. Clinton and Margaret, both had reddish tints to their eyes since the initial contamination from the fiberglass. We thought after the initial problem was resolved, that the redness was mostly caused from Pollination as we had acquaintances that claimed this problem, and we did live in a highly forested area.

15. During January of 1999, Clinton Tullis went to Idaho to join his family to encourage a younger brother, whom was scheduled for heart surgery.

16. Upon returning home to Renton, Washington on January 19, Clinton asked Margaret what had happened to make her eyes so red. She stated that their getting worsened was why she hadn't gone to Idaho with me. They were now real bad. She had been in the house continually since Clinton had left for Idaho and usually, she would either be working out in the yard or going shopping or visiting our children.

17. Clinton, exclaimed "Oh my God" Don't tell me it's the furnace. Consequently, Clinton Tullis, then went to Home Depot and procured several rolls of heavy Duct

Tape and a few pounds of sheet metal screws. Clinton then went into the attic and peeled off all of the joints of the Air return ducts, secured the joints tightly and then caulked and made several wraps of tape around each connection. This did not improve the situation.

18. Since December 2, 1993; You could always see small particles between yourself and the light coming through the windows. We thought that some of this might be caused by a combination of our clothes dryer and pollination from trees that seemed to be constantly in the air. This situation had considerably increased.

19. Clinton then went under the house and secured all joints of the Furnace. Then wrapped the joints with several rounds of duct tape. This maneuver took several, long days, and 9 rolls of Tape. The situation got worse. The increased air pressure now was forcing more particles into the house.

20. Tullis's then called a reccommended Furnace Company, Brennen Heating, whom came out and opened the base of the furnace, and looked into the hot air ducts under the house with a six volt flash light. It was very obvious, as he exclaimed, that the fiberglass had joined with condensation in the lines and had cemented to the walls about one quarter of an inch thick. It had been slowly leaching into the house and recently was really breaking loose.

21. The only remedy was to remove the entire system; Take the Furnace apart, clean it thoroughly and replace all of the Air return and hot air lines with new piping. Tullis's called a reccommended E.P.A. suggested Contractor, whom bid the total removal of all of the carpeting from within the house, Environmentally

cleaning the entire internal of the house; Removing the fiberglass insulation from under the house and from the attic, and removing all of the piping; Then vacuuming and sealing under the house and the attic.

22. He also dug a six foot deep trench tapering from under the house foundation to about one hundred feet from the house and draining into a five foot diameter, by six foot deep hole so that the crews could work as dry as possible. The trench was also necessary for removal and replacement of the piping from under the house.

16. Tullis's contracted replacing the carpeting and we contracted with Brennen Heating to replace the Furnace and entire Heating system. We also contracted new insulation installation, and Painting the entire interior.

REASONS FOR GRANTING THE WRIT

1. The Contractors Insurer chose to hire a Seattle Law Firm to negate Company Insurance and Contractors responsibility. The Law Firm realized, their case had no merits and consequently chose to defeat the Tullis's at any costs, appearing to believe, using False Documents, was the only possibility of quieting the cause. Violation of F.R.C.P. *11*

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2. The Courts have refused to believe, the attorney's would be so bold as to present false documents. The courts, have avoided confronting the issue, by referring to technical issues, that was most often, not at the least, applicable to the true situation.

3. The continuance of this case, is reaction to past

application of injustice; from life-threatening exposures and persecution of a citizen, by respondents and consequent prosecution by disbelieving courts.

4. Tullis's being total novices, thought it would be better to allow the Contractor to sue us for the money owed for the new furnace and water heater. Upon commencing the case, we would pay the agreed price and continue the case at the initial expense of the Contractors, for disclosure to the court, of the Dilemma Tullis's household were subjected to.

This of course was a mistake, as it appears, the Plaintiffs appear to have the upper hand in the State Court system. We expected questions and answers and adequate witnesses would suffice.

6. After Clinton Tullis made the error of adding the Insurer into the case; The court ruled in favor of Plaintiffs represented by Lee, Smart, et al.

6. Tullis's hired an Attorney that had gained headlines by representing a County area water purveyor". She agreed to represent us for a price to conclusion and after getting the case returned for trial and paying her two and one-half times what we had agreed upon to get the suit to this point, she again asked Tullis's for more money.

7. Tullis's had asked her to file interrogatory's to the opposition. Clinton had been subjected to a huge number of Interrogatory's by opposition attorneys and partially understood their importance to determine the arrogance of the opposition (Plaintiffs).

8. Unknown to Tullis's; The Attorney had actually, done nothing towards discovery and Tullis's had no idea of the attitude of the opposition, other than they

didn't appear to be disturbed by the horrendous contamination which Tullis's had been subjected to. Tullis's sincerely believed an Attorney would know the rules applicable to Tullis's dilemma.

9. Clinton Tullis again took over the case and commenced studying law, knowing Tullis's were in for a rough ride.

10. Tullis's wrote interrogatory questions based upon the information gained from various Contractors, reccommended for obtaining the Truth of Tullis' dilemma and to Augment the corrections Necessary for Tullis safety.

11. The interrogatory's were deliberately delayed by Creighton S. Hutchins of Lee, Smart, Cook, Martin and Patterson, P.S. Inc. until too late for Tullis's to benefit for Discovery.

12. Even though Tullis's were novices, they realized the Signatures on the Interrogatory's were improper from both the Attorney and the fictitious, insulting, name of a Gary Groetz, of whom is not known in the Western part of the State of Washington. Larry Goetz signed in front of a notary on June 11, and the attorney improperly signed the interrogatory's on July 1, 1997;
Violation of F.R.C.P. RULE 11
Violation of F.R.C.P. RULE 33: Improper Signature

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13. Tullis's then hastened to find out, what they could do about getting inspections for Court information, and found, inspections were only performed after obtaining a permit; Tullis's appliances being previously installed negated obtaining those permits.

14. A King County Code Enforcer informed Tullis's of a Civil, Sheet Metal Inspector whom would come and check the assemblies and make recommendations

if necessary. This Tullis's did and a gentleman by the name of Wayne Ester came to Tullis's house, made his inspection and wrote and signed a list of changes needed to bring the assemblies up to the Codes applicable to the date the Gas Furnace and Gas Water Heater were installed in 1993. Those codes became law in 1991. The permits could only have been obtained by the Contractor doing the installation . A home owner could only obtain permits for new installations or replacements, which the home owner intended to perform himself; and those would have to meet the strict requirements.

15. Tullis's then proceeded (due to necessity of safety), to Phone contractors and ask for bids. Upon receiving the bids for correcting the improper installations, Tullis's were able to obtain the Permits and have the visual things brought up to Code.

16. There was so many safety things neglected, it was staggering. A safety tire block had to be installed; Electric wiring had been left dangling off the junction boxes; Caulking and sealing the furnace and immediate piping had to be performed, to keep exhaust fumes from entering the house through the heating system; Two high-voltage electric lines were left loose at one end in the attic area and had to be removed; The Gas Flex Line ran to the interior of the furnace and had to extend the internal solid connection to the exterior of the furnace housing, then attach the flexible line; The water heater had to have the high pressure release valve replaced and the three quarter inch copper line extended to the exterior of the garage. The installers had distorted the safety valve, which was not visible until removed in the process of correcting the drain line, It would not have functioned in any emergency

function; The heat vent to the garage had to be removed from the furnace base, plated over, and the base of the Furnace Caulked and taped. Codes will not allow the furnace heat vent to be placed in a Group 2 Occupancy, which means a garage used for parking vehicles. Curing of above, removed dangers subjected to the people within the house. 1991 codes effective1997

17. Soon after above; Tullis's took this information to the Court. Tullis's mistakenly expected the Court to review the questions and answers and signatures on the Interrogatory's and to review the questions answered by the Code Enforcers for facts and truth of the case. Tullis's also, had "paid for" and demanded Trial by Jury.

18. This was ignored by all of the State Courts and now the District Court and the U.S. Court of Appeals, leading Tullis's to believe that Perjury, as applicable to the Opponents presentations to the Courts, was being accepted as a Standard Procedure; Regardless of the Laws emphasizing Torts and punishment for their application.

VIOLATIONS of the SEVENTH AMENDMENT ***and the*** FOURTEENTH AMENDMENT:

According to Supreme Court on *Dairy Queen v. Wood (1962),* The right to jury trial attaches to every legal issue. **82 S. Ct. 894.** *F.R.C.P. Rule No. 38: JURY Trial of right:* **(a) Right preserved.** The right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the Parties inviolate.

.**(b) Demand.** Any party may demand a trial by jury of any issue triable of right by a jury, by (1) serving upon the other parties a demand in writing at any time after

the commencement of the action and not later than 10 days after service of the last pleading directed to such issue, and filing the demand as required by Rule 5(d). Such demand may be endorsed upon a pleading of the party.

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19. Washington State Superior Court Judge, Robert Lasnik, (Now a District Court Judge, for the Western District of Washington State); after reprimanding Tullis for being in his Court as Pro Se; Determined to ignore the wrongs and reprimand Tullis's for bringing the facts to the attention of the Court, then issuing Summary Judgment in favor of the perpetrators based on a distorted, false, Declaration of Dennis Devlin, which was designed in the offices of Lee, Smart, Cook, Martin and Patterson P.S. Inc.

Violation of F.R.C.P. Rule 11
Violation of R.P.C. 1.2,3.3,3.4;
Violation of Sixth and Fourteenth Amendments;

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20. This Declaration, affluently presented by Representatives of Lee, Smart, Cook, Martin and Patterson P.S. Inc., stated that all of the incorrect measures, that Tullis had to have corrected, were either performed to code or were already in place for the old furnace and water heater and that Attorneys clients were only replacing the original equipment and were not Legally obligated to change anything.
21. The Codes given to Tullis by the Code Enforcers, designate: A new installment, whether a replacement or otherwise, shall first obtain a permit and shall be brought to current codes regardless of their prior

condition. The permits are the absolute responsibility of the installer and are available to the individual, only if he/she is doing the installation. Regardless, the codes must be applied and inspections performed prior to energizing the equipment.

22. The Code Enforcers gave Tullis copy's of the 1991 Codes applicable to the 1993 Installations and informed Tullis's that all of Dennis Devlin's Declaration was farce, and Dennis Devlin, being a professional and owner of the Business should and would have known better. Creighton S. Hutchin's should have also known better or could have easily found out by calling the Code Enforcers.

23. Judge Lasnik ignored the facts, threw Tullis's exhibits out of Court, and this trend has continued to the benefit of the perpetrator attorney's. It appears that no matter how timely or to what degree Tullis's attempt to enter the Truth; The system depresses the Truths for the benefit of its class, by using a technicality or Authority, of a point of law, even when it does not apply at all, to any part of the situation.

24. The District Court Judge, Honorable Thomas D. Zilly, continued the above consideration and used an authority and his opinion that is not applicable to Tullis's Case. This case is not against the original contractor. It is against the Attorneys and Law Firms that are energizing Perjured Documents in violation of all standards and degrees of Courts, to squash their opposition. <u>VIOLATION OF TULLIS CIVIL RIGHTS</u>

25. If the original perpetrators of Tullis's dilemma would have performed according to the merits of their trade; Tullis's would have paid even more than the agreement if necessary, to make certain the installations were correct and their Representative Lawyers would

not have to step out of line to present their case.
26. If the Lawyers would have applied expected standards and had not conjured perjury, Tullis's would not be here.
The activity of these Lawyers and their former clients are a disgrace to our society and a belittlement to our legal system, to subject the Public to unnecessary risks, endangering every ones well being". You cant live on a hill and escape the smoke anymore. Such political and legal attitudes must change.
27. Courts to Tullis's to date, have used non-complying references to other cases as an easy way to shrink their work load. If they are too burdened to properly perform at their work; It must be time to retire or seek other responsibility that is not so strenuous, and most certainly, not such a burden on the taxpayers, for neglect of Public protection and expectations under the Constitution Articles and Amendments protecting our Civil Rights.
28. Yes, Tullis's are disappointed in the Criminal Treatment they have been exposed to and the disrespect and the disregard by the Legal system in violation of Tullis's Civil Rights
29. The Respondent Attorneys and Law Firms have continually, maliciously presented the perjured documentation of: "Declaration of Dennis Devlin" to influence decisions; of the Courts using inapplicable Citations and Authorities to escape responsibility.
30. The Courts have ignored the Attorneys and Law Firms abuse of process when Authoring and signing the original Interrogatory's .
31. The courts have ignored the false statement of Robert E. West, when Lee, Smart, et al, Attorneys, have presented it with pleadings made to the courts.

R.P.C. Rule 1.2: Lawful Objectives, Unlawful Means:
A lawyer may never further a client's lawful objectives through unlawful means. (Lawyer disbarred for advising client's to invent evidence in defense of drunk driving case)..

R.P.C. Rule 3.3: Candor Toward The Tribunal:
(a) A lawyer shall not knowingly:
(1) make a false statement of material fact or law to a tribunal;
(4) offer evidence that a lawyer knows to be false.
Wanderer v. Johnston, 910 F.2d 652 (9th Cir. 1990) "inexcusable obstruction of the opposing party's discovery efforts."

R.P.C. Rule 3.4 Fairness To Opposing Party and Counsel; A Lawyer shall not:
(a) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or material having evidentiary value. A lawyer shall not counsel or assist any such act;
(b) Falsify evidence, counsel or assist a witness to falsify, or offer an inducement to a witness that is prohibited by law;

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32. Are the respondent Attorneys and Law Firms so profoundly overwhelming their opposition with intent of sweeping their Court contests, by usage of Court honored, illicit, disconcerting Documents against their opposition, that they are mistakenly believing that they are entitled to believe, it is an accepted practice.
33. There is a profound difference of, "a stretching the

blanket type of lie", and Fraud and Perjury; of which entered into the Court, especially in writing; is condemned by all of the rules and regulations applicable, indicating various stages of Criminal Application for punishment, and liability for Tort.

34. Robert E. West statement of: the Contractors completed Tullis's installations in a good and workman like manner, was substantially incorrect and was in writing presented to influence the Court.

35. Creighton S. Hutchins also Maliciously Abused the Process through assisting in authoring and presenting an illegal, improperly signed; and deliberate delay in returning the Improperly answered Interrogatories to Tullis's, to avoid petitioners ability to properly and timely perform discovery prior to cut off.

36. Robert E. West, of West and Collins. Creighton S. Hutchins, Rory E. Leid, Karen A. Kalzer, and Lee, Smart, Cook, Martin and Patterson P.S. Inc. all supposedly had enough education to be aware of the fact that they could obtain opinions of experts on the Tullis's mechanical installations to obtain the conditions of the workmanship. From there, they could make their recommendations to Tullis's as to the cure and if not negotiated, Then project the Truth to the Courts and alleviate the problems now endured.

37, If the illegal practice,s named above, are to be expected as acceptable to our courts; Then change the books; or educate the Attorneys and the judges to respect the rules.

38. If the prior judges had of really Judicially surveyed the Briefs, unbiased, and with prudence; this case would have been settled. No wonder the Courts claim to be overburdened. An Attorney is allowed to cheat, lie and steal and be adorned for his ability to deceive

the Public by any method, unrestricted and definitely unquestioned; as has been this case, and is intolerable.
39. At the commencement of this endeavor for Justice; Tullis's "Petitioners" simply wanted to have a new gas furnace and gas water heater installed because the electric furnace would run cold air for several minutes before putting out any heat and we wanted a place for all of our family to visit in comfort for the oncoming Christmas and the holidays thereafter.
40. We expected the Contractor we trusted and hired to perform the replacement, to know what would be required for the installations and to make a proper, "trouble free" installation. If their salesman was trained as we expected, he would have known the regulations and would have proceeded to tell Tullis's the amount of work and effort required and then base his estimate on his knowledge of past like efforts. Tullis's would have gladly accommodated financially and otherwise upon furthering their knowledge of what would be required.
41. Tullis's had absolutely no knowledge of what encompassed such an endeavor. We certainly would not have entered into an agreement for a slip-shod installation. We had to trust the contractor and decided, the one chosen, had a long term in business as being a proper factor. Whom would dream; that the Contractors were wired into Heavy Insurance and would do as they recklessly pleascd at their customers expense of health and wealth; especially when they were bonded by Washington State.
42. Tullis's impression of the various Courts attitudes is: Definition of Tullis's as being opportunists. Under no circumstances would any one with half of a mind, subject themselves to the miseries Tullis's have

endured and very possibly jeopardized our health along with years of loss of peace of mind, for any amount of financial gain.

43. Clinton Tullis recently had a cancer tumor removed by a deep, long incision on his neck. That is the first cancer known in all of our immediate family history. This was the ensuing cause of delivery of a late Brief to the Ninth Circuit Court of Appeals. Real cause of the tumor is unknown. Regardless; The exposures from the unfounded, illegal and reckless installations of the Mechanical devices into our home has not blessed our health and longevity.

44. Tullis's have never questioned for a minute , that the Courts would give consideration to all factors of the case and make a decision of the proper compensation for the Financial losses and physical and mental extremes we have been exposed to. Tullis's have considered at and since the first Court endeavor, that a jury trial was essential. The lower Courts balked at any suggestion of compensation and joined the opposition in agreeing to let, Margaret and Clinton Tullis, enjoy the experience and pay dearly for it.

45. Tullis's would have accepted a reasonable conclusion, as justice; whether jubilant or not.

Tullis's , "Petitioners" have had their Civil Rights Violated continually throughout the Legal system; inclusive of the Federal District Court and again by error of the Ninth Circuit Court of Appeals; In violation of United States Constitutional Guarantees; in violation of United States Environmental Protection Agency Standards; in Violation of the 7th Amendment, of Guarantee of Trial By Jury, in violation of the 6th and 14th Amendments; All commenced from chastising by a Superior Court Judge; whom later was selected as

candidate for a Seat in the Western Washington United States District Court; and Whom also denied Tullis's the right of defense through The Compulsory Process clause of the 6th Amendment; and then denied Tullis's the right to Due Process violating the 14th Amendment.

Creighton S. Hutchins Malicious Abuse of Process; "Legal Malpractice" through assisting in authoring and presentation of a false Declaration to the Court, adorned by Karen Kalzer and Rory Leid; Then Creighton S. Hutchins denial to Tullis's timely discovery request, thwarted through the improper answers, signatures and return of the interrogatory's; and Condoned by LEE, SMART, et al, P.S. Inc. and these facts ignored by the Courts to date.

Lee, Smart, et al, Behavior, appears to have the same Nucleus as "Civil, Racketeer Influenced and Corrupt Organizations Act," (R.I.C.O.) 18 U.S.C.A. 1964; 28 U.S.C.A. 1367

1993 AMENDMENT TO RULE 11(c)(1)(A), Absent Exceptional Circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

10.15 U.S. JUDICIAL SANCTIONS

Courts of Appeals decisions; Malautea v. Suzuki Motor Co. 987 F.2d (11th Cir., 1993) (default on liability issue only, pl,us monetary sanctions for failure to comply with discovery orders);

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67 F.2d (9th Cir. 1995) U.S. v. Keys: Defendant received five years for perjury 18 U.S.C.A. 1623(A) Perjury: In perjury prosecution under statute prohibiting false

material declaration under oath, materiality is element of crime and must be submitted to jury.

The standard employed by the Court below; accepting all inferences of predisposition in favor of Respondents, does indeed constitute an abdication of the court's double responsibility to sincerely review the history of the case. The decision of the Ninth Circuit conflicts with other Ninth Circuit decisions and the numerous cited decisions of the Federal circuit courts of appeals.

To correct the Ninth Circuit's misapplication of the law and non-concurrence with Applicable Constitutional Articles and Amendments. This Court should review the decision below, determine proper Trial, or remand this case to the Applicable lower Court for trial by Jury and proper disposition.

CONCLUSION

For these reasons, petitioners respectfully prays that this Court grant its writ of Certiorari

Respectfully Submitted,

Clinton M. Tullis, ProSe
Margaret L. Tullis, ProSe
16300-184th ave. S.E.
Renton, Washington 98058-0903
(425) 226-7399

9/04/01 Clinton M. Tullis

Clinton M. Tullis ,Pro Se

9/04/01 Margaret L. Tullis

Margaret L. Tullis Pro Se

No._____

_____ • _____

In The
Supreme Court Of The United States

_____ • _____

CLINTON M. TULLIS and
MARGARET L. TULLIS

Petitioners

vs.

Law Offices of LEE, SMART, et al, P.S. Inc.;
and Law Office of WEST and Collins P.S.

Respondents.

_____ • _____

On Petition For Writ Of Certiorari To The Ninth Circuit Court Of Appeals

_____ • _____

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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There is no excerpts of record from the Federal Courts as trial has been inappropriately denied Plaintiffs-Appellants.

[NOT FOR PUBLICATION]

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 00-35558

D.C. Docket No. CV-00-00067-Z

CLINTON M. TULLIS; MARGARET L. TULLIS

Plaintiffs-Appellants

MEMORANDUM

versus

LEE, SMART, COOK; ET AL; P.S. INC.;

Defendants-Appellees

Appeal from the United States District Court
0 For the Western District of Washington, at Seattle
Thomas S. Zilly, District Judge, Presiding

(Filed March 29, 2001)

Cathy A. Catterson, Clerk
u.s. court of appeals

Before LEAVY, THOMAS, and RAWLINSON, Circuit Judges,

Clinton M. and Margaret L. Tullis appeal pro se from

the district court's judgment dismissing their action for lack of subject-matter jurisdiction. We have jurisdiction pursuant to 28 U.S.C. A. 1291. We affirm. *See Branson v. Nott*, 62 F.3d 287, 291 (9th Cir. 1994).

Insofar as the Tullis' contend that the district court erred by failing to certify their action as a class action or by dismissing federal environmental and civil rights claims against these defendants, we reject these contentions as meritless.

We conclude the district court, did not abuse its discretion by denying the Tullis motion for reconsideration. *See Sch, Dist. No. 1J, Multnomah County v. AcandS, Inc.*, 5 F3d 1255, 1262-63 (9th Cir. 1993).

AFFIRMED.

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1 This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by the 9th Cir. R. 36-3.

2 The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 334(a)(2).

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 00-35558

DC# CV-00-00067-TSZ

ORDER

CLINTON M. TULLIS; et al.,

Plaintiffs-Appellants,

versus

LEE, SMART, COOK, MARTIN AND PATTERSON P.S. INC., et al.,

Defendants-Appellees.

Appeals from the United States District Court
For the Western District of Washington at Seattle

(Filed May 25, 2001)

Before: LEAVY, THOMAS, AND RAWLINSON, Circuit Judges, and ZILLY*, District Judge.

Appellants' petition for panel rehearing is denied. No further filings will be accepted in this closed appeal.

ENTERED FOR THE COURT:
"s/ CATHY A. CATTERSON"
CLERK, U.S. COURT OF APPEALS

UNITED STATES DISTRIC COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. C00-0067Z

ORDER

TULLIS, CLINTON M. and TULLIS, MARGARET L.. and the marital community Comprised thereof,

Plaintiffs,

v.

LE, SMART, COOK, MARTIN and PATTERSON P.S., INC., et al.,

Defendants.

This matter comes before the Court on Defendants' Motion to Dismiss for Failure to State a Claim, docket no. 4. Plaintiffs filed suit in this Court, alleging fraud and perjury on the part of the defendant attorneys, as well as violations of environmental law and malicious prosecution. These claims arise from King County Cause No 94-2-11782-3 and subsequent appellate decisions, all of which were decided adverse to the present plaintiffs.

Federal District Courts "may not serve as appellate Tribunals to review errors allegedly committed by the State Courts."' MacKay v. Pfeil, 827 F.2d 540, 543 (9th Cir, 1987)(citing District of Columbia Court of

Appeals v. Feldman, 460 U.S. 462, 482, 75 L.Ed. 2d 206 (1983); see also Branson v. Nott, 62 F.3d 287, 291 (9th Cir. 1994). This Court has no authority to review the decisions of state judicial proceedings. See Branson v. Nott, 62 F.3d 287, 291 (9thCir. 1994). Even if a decision of a state court implicates federal constitutional issues, the judgment does not give rise to a claim for violation of constitutional civil rights in federal district court. See Reynolds v. State of Georgia, 640 F.2d 702, 705 (5th Cir. 1981). Plaintiff's suit is "so connected with the original suit" in state court "as to form an incident to it, and substantially a continuation of it." MacKay, 827 F.2d at 543. Therefore, this Court cannot act as a appellate court for the review of the prior state court decisions. Similarly, there is no evidence linking violations of federal environmental law to the defendants. Likewise, the alleged malicious prosecution arises in the context of the motions for reconsideration and subsequent appeals in the state court brought by the Plaintiffs themselves, not by the Defendants.

The Court GRANTS the Defendant's Motion to Dismiss, docket no. 4. Although the Court views this case as very close to a frivolous claim, the Court DENIES the Defendants' request for sanctions against the pro se plaintiffs

IT IS SO ORDERED.

DATED this 5th day of May, 2000.

"s / Thomas S. Zilly"
UNITED STATES DISTRICT JUDGE

"s/ el" Filed 5-8-00 - Deputy clerk "initials only"
Stamped May 05 2000 U.S. District Court, at Seattle.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON,
AT SEATTLE

"s/ el" Filed
MAY 22 2000
AT SEATTLE

No. C00-0067Z

MINUTE ORDER

TULLIS CLINTON M. AND TULLIS MARGARET L.,

Plaintiffs

v.

LEE, SMART , COOK, MARTIN, AND PATTERSON P.S., Inc. et al.,

Defendants

On motion for reconsideration

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge: The Plaintiff has moved for the Court to reconsider its order dated May 5, 2000 (docket no. 22). The Court hereby DENIES the motion for reconsideration.

The Clerk is directed to send a cop[y of this Minute Order to plaintiff.

Filed and entered this 19th day of May, 2000.

BRUCE RIFKIN, Clerk

ENTERED FOR THE COURT
"s/ Casey Condon"
DEPUTY CLERK

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

No. 94-2-11782-3

NOR PAC HEATING AND
AIR-CONDITIONING INC.
Plaintiff

v.

CLINTON M. TULLIS and
MARGARET L. TULLIS
Defendants

The Defendant Clinton M. Tullis appearing as Pro Se, The Court having heard arguments of counsel and pro se litigant, having considered the files and records herein, including:

1. Plaintiff's motion for summary judgment;
2. Declaration of Creighton S. Hutchins with the attached documents and excerpts from the deposition of Clinton M. Tullis and Dr. Jonathon Ostrow;
3. Declaration of Dennis Devlin;
4. Defendants answer to Plaintiffs motion for summary judgment;

(In this space was judge Lasnik writing : Quote: but not the materials included which do not comply with CR 50.)

5. Plaintiff's reply, including motion to strike pleading.

The court otherwise being fully apprised in the premises, it is now, therefore: **ordered, adjudged and decreed** that Plaintiffs Motion for summary Judgment is hereby granted. "s/ RSL" The Motion to strike

improper and late pleadings is granted.

It is further ordered, adjudged and decreed, that all of the Defendants claims are hereby dismissed with prejudice. Done in open Court this 8th day of August, 1997.

"s/ Robert S. Lasnik."

Presented by: Lee, Smart, Cook, et al, P.S. Inc.,
By: "s/ Creighton S. Hutchins" WSBA No. 8456
of Attorney for Plaintiff

Notice of presentation waved; Copy received; Approval of form.

PUBLISHED OPINIONS

1. 892 Federal Reporter 2d Series

Laura Kraemer, Plaintiff-Appellant v. Grant County, Herbert Hottenstein, William Baker, Betty Baker, et al., Defendants-Appellees

Appeal of Mark D. Lawton No. 88-3519

United states court of appeals, seventh circuit.
Submitted Nov. 28, 1989. Decided Jan. 9, 1990

The United States District Court for the Western District of Wisconsin, Barbara Crabb, Chief Judge, ordered attorney to pay $3,000 toward legal fees of adverse parties incurred in defending Civil Rights case brought by Attorney on behalf of client claiming conspiracy to evict her from land. Attorney appealed. Court of Appeals held that Rule 11 sanctions for alleged failure to investigate claim prior to suit was unwarranted where attorney had done everything possible to gather information by hiring a private investigator and instituted suit only after hostile attitude of Potential defendants made it necessary to gather information.

Lawton took all the steps he reasonably could have taken before filing suit to determine the truth of Kraemer's allegations. He should not have been sanctioned for turning to the judiciary, whose function is to find the truth, when his own resources failed.

Reversed

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2. **8 Fed. Reporter, 3d Series**

United States of America, Plaintiff-Appellee, v. Millard F. McAfee, Defendant-Appellant No. 93-1045

United States Court of Appeals Fifth Circuit Nov.30,1993

Defendant was convicted in the United States District Court for the Northern District of Texas, Mary Lou Robinson, J., of willful perjury and making irreconcilable contradictory declarations in proceedings before or ancillary to court or grand jury. Defendant appealed. The Court of Appeals, Duhe Circuit Judge, held that: (1) perjury statute governing contradictory statements made in proceedings before or ancillary to court or grand jury of the United States applies to civil depositions; (2) Evidence supported conviction under statute; and (3) defendants alleged statements in two civil depositions respecting name on checks were material to point in questions required for conviction under statute.

Affirmed

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3. 57 Fed. Reporter, 2d Series

Federal Communications, Appellee, William P. Johnson and Hollis B. Johnson, doing business as Radio Carrollton, Intervenor. No. 75-1568

Argued April 8, 1976 Decided May 26, 1977

Appellant appealed from an order of the Federal Communications denying renewal of its license to operate a radio station. The Court of Appeals, Spotswood W. Robinson, III, Circuit Judge, held that the Commission erred in attaching greater weight to the testimony of two parties who were lawyers, simply because they were lawyers, than to the testimony of the opposing witnesses.

Vacated and Remanded

Wilkey, Circuit Judge, concurred in the result.

1. Telecommunications U.S. 385 When two or more applications for broadcasting licenses are mutually exclusive, they must be considered and resolved together, and Federal Communications Commission may first grant one and then hear the other or others.

2. Telecommunications U.S. 425 Findings of fact by Federal Communications Commission must be accepted by Courts when supported by substantial evidence in the record considered as a whole and credibility resolutions by administrative law judges are entitled to great weight on judicial review of agency action; however, neither type of determination can stand when predicated upon material error of law.

4. Evidence U.S. 588

Witness occupation may in given situations be factor bearing on his credibility, but fact that occupation is respectable, even exaulted, does not of itself elevate witness testimony above that of any other reputable witness.

Faulkner Radio, Inc., appeals from an order of the Federal Communications Commission denying renewal of the license to operate a radio station. The challenge to the commissions decision is rested on several grounds, including the claim that the Commission erred in attaching greater weight to the testimony of two parties who are lawyers, simply because they are lawyers, than to testimony of opposing witnesses. We find that ground dispositive of the appeal, and remand the case to the Commission for reconsideration.

Vacated and Remanded

4. 998 Fed. Reporter 2d Series

United States of America, Appellee-Cross-Appellant, v. Charles O. Shonubi, Defendant-Appellant-Cross-Appellee.
Nos. 1307, 1433, Dockets 92-1607, 92-1653
United States Court of Appeals, second circuit.
Argued March 30, 1993. Decided June 30, 1993.

Defendant was convicted of heroin importation and possession and was sentenced by the United States District Court for the Eastern District of New York, Jack B. Weinstein, J., 802 F. Supp. 859, and he appealed. The Court of Appeals, Cardamone, Circuit Judge held that: (1) finding of perjury during trial required district court to enhance defendant' sentence by two levels under Sentencing Guidelines; (2) drug quantity was improperly determined by multiplying quantity of heroin seized from defendant following his last trip to Nigeria by the total number of trips; and (3) finding that defendant was not entitled to reduction as minor or minimal participant was not clearly erroneous.

Vacated and Remanded

DISCUSSION: I Obstruction of Justice [1,2] We discuss the cross appeal first. The government contends the district court erred in refusing to enhance Shonubi's sentence for obstruction of justice. At sentencing, the government must prove by a preponderance of the evidence. The sentencing guidelines provide for a two level increase in offense level where the defendant "willfully" obstructed or impeded, or attempted to impede, the administration of justice during the investigation, prosecution, or sentencing of the instant offense. U.S.C.G. U.S.3C1.1. This enhancement applies to a defendant who commits perjury. Id. At comment. (nn. 1.& 3.). Perjury is defined

by statute as willfully giving false testimony under oath concerning material matter. 18 U.S.C. U.S. 1621 (1988).

In the case at hand, the trial court found that "defendant" clearly lied willfully during his trial testimony. Shonubi, 802 F. Supp. At 863.

Supreme Court agreed that "after reviewing the record", we cannot say these findings were clearly erroneous [5,6] These specific findings satisfy the elements defining perjury because Shonubi's false testimony concerned matters and was given with a willful intent to provide false testimony, not on account of confusion, mistake, of faulty memory. That is to say, appellant lied willfully about importing heroin without there being any extenuating circumstances [7]
The base of offense level for drug trafficking under the Sentencing Guidelines depends on the amount of drugs involved. (with $23,000 worth of cocaine, not a minor participant). Consequently, the District judge did not err in declining to characterize Shonubi as a minor or minimal participant in heroin trafficking and to reduce his sentencing accordingly. CONCLUSION: The judgment of the district court insofar as it imposed sentence is vacated and the matter is remanded to that court for resentencing consistent with this opinion.

EXHIBITS

Declaration of Dennis Devlin

I Dennis Devlin, hereby declare and state as follows:
1. I am the President of Nor Pac Heating and Air-Conditioning Inc., located at 3414-A St. ; No. 102, Auburn, Wa. 98002.
2. In December of 1993, Nor Pac installed a hot water heater and furnace at the residence of Clinton M. Tullis and Margaret L. Tullis. I am familiar with the building, mechanical and plumbing codes applicable to the December, 1993 installation at the Tullis' home. Since the Tullis' residence was outside of the city limits, the King County Code was applicable.
3. I have personal knowledge of the installation and have reviewed video of the furnace and hot water heater recorded at the residence of Clinton . Tullis and Margaret L. Tullis. I have also reviewed the various allegations made by the Defendant against Nor Pac.
4. The installation of the hot water heater was in accordance with the relevant provisions of the building, plumbing, and mechanical codes in effect at the time of the installation of the hot water heater. (A). An earthquake strap was attached to the hot water heater as required. The location of the strap was the choice of the installer. (B). The hot water heater was placed in the same location as the old water heater. No tire guard was present when the old tank was removed. A tire guard was not required until sometime after the installation due to changes in the code. (C). The hot water heater exhaust pipe was installed according to the relevant provisions of the applicable code. The

space (Garage) was heated. Since the space was heated, a single wall exhaust pipe was appropriate. (D). The "Double Wall" was not required at the time of the installation. The code has now changed.

5. The installation of the furnace was done in accordance with the code in effect at the time.

A. All joints that required caulk were installed properly. Most did not require caulking because they were an "s" assembly that acts ass its own seal.

B. The gas lines to the furnace were installed properly. Flexible line is proper. The code does not require the gas line to be hard lined to the furnace connection.

C. There was no specific regulations for the gas lines relative to junction boxes. The gas line was by provisions of the 1993 regulations.

D. The furnace was insulated to the relevant provisions of the 1993 regulations. Since the furnace was located in a heated space, no special or extra insulation was required.

E. A double wall exhaust pipe was not required because the space was heated. Once the exhaust line entered the attic to exit through the roof, it was double wall as required by code.

F. Nor Pac was under no contractual obligation to repair or replace duct-work located in the crawl space. It did not disturb or cause separation of the existing duct work.

6. Attached hereto is a true and correct copy of the contract between Nor Pac and Tullis'. Signed under the penalty of perjury, under the laws of the State of Washington "s/Dennis Devlin" President of Nor Pac.

Note: No. 6 above is the only Truth of the entire Declaration.

Tullis's Interrogatory's below: To Nor Pac Heating and Air-Conditioning Inc.; Answered by Larry Goetz, Identified as Vice President of Nor Pac.

QUESTION: Please state with specifity why you do not tape and/or seal each joint of metal in your furnace and Air-Conditioning installations?

ANSWER: Objection. Argumentive, vague, ambiguous, misleading and assumes facts not in evidence; Furthermore, the answer depends upon the circumstances, the construction, the scope of work for which is contracted, and the cause of each joint separation if, in fact, a separation exists; Furthermore, the furnaces are manufactured by the manufacturer. We are an installer and are not part of the manufacturing process.

(a) Code Enforcer Response: All furnace joints, chimney joints, duct work, etc. within the garage area, shall be sealed & insulated to specifications of the codes supplied to the Administrative Authorities.

QUESTION: Please state with specifity, why you do not place a post or tire block in front of and to protect the water heater against a vehicle being parked and accidentally damaging the water heater?

ANSWER: Objection; Furthermore, as it applies to the defendants home, the original water heater was installed without a curb. We were simply doing a replacement and were not contracted to do upgrades or otherwise perform work above and beyond the scope of our contract or by code..

(a) Code Enforcers response: On a group 2 occupancy such as Tullis's residence; A suitable vehicle block shall be placed to protect the water heater from possible damage as per codes from 1991.

QUESTION: Do you recommend running the flexible gas line inside of the gas furnace housing? If so, please give a detailed explanation of this procedure including the State and County rulings on such procedure.

ANSWER: Objection; Vague and ambiguous and irrelevant. Not defined as to the use of the gas line, its source or terminus. Without waiving the objection, flexible line is authorized by the particular municipality and the Uniform Mechanical Code.

Correction: Wayne Ester of Northwest Sheet Metal Inspection Service stated: The "Subject" Flexible Gas Line, as it connects to the solid black iron piping a few inches outside of the furnace and continues to about 4 inches inside of the furnace, to the furnace connector, is not up to code.

Code Enforcer Response: The internal piping of the furnace must be a solid line. Flex line is proper from the exterior of the furnace to the incoming hard line from the fuel supply.

QUESTION: Isn't it the installers obligation to tape, seal, and wrap pipe, metal ducts and all metal joints disturbed by removal and installation of furnace and air-conditioning equipment.
If not, please explain.

ANSWER: Objection; Argumentative. Also uses undefined terms, i.e. disturbed. Depends upon the situation and depends on what has been disturbed and how it has been disturbed.

Comment: Evasive answer as Nor Pac was informed, Nor Pac installer had damaged the ducts which were professionally taped, sealed, and wrapped with insulation, supervised by Puget Power, 1 year before Nor Pac installation.

Code Enforcer Response: The new furnace joints must all be sealed and wrapped with fire resistive coatings and insulation to comply with section 603.1.1. of the King County Department of Development and Environmental Services (DDES) as per 1991 Codes.

QUESTION: Is it within the Code of ethics or the various Electrical, Mechanical, or Gas Piping Codes to mount the gas "Black pipe" against an electric junction box? If so, please name the one, or those of the above list of agencies authorizing such an installation. Explain your opinion with specifity.

ANSWER: Objection. Use of vague, undefined terms or phrases, i.e. Code of Ethics and "Within the Code of Ethics or various electrical, mechanical, or gas piping codes." Further object as vague since no jurisdiction is mentioned.

Code Enforcer Response: Dick Gilcrist, electric inspections supervisor of the state of Washington states: the J-Box must not be blocked by anything that will have to be moved or forced aside to gain access to the J-Box. The metal conduit must be fastened solid to the J-Box and supported within 10 inches of each end of the conduit to give a solid grounding, which is its purpose.

QUESTION: Does Nor Pac recommend to their employees to disregard a customer's request to clear and clean the surfaces around their contemplated working areas so as not to contaminate the area below? If so, explain with specifity.

ANSWER: Argumentative, vague, ambiguous, not defined as to specific circumstances or application. Without waiving the foregoing objection, it is the customer's responsibility to make access to the work site clean, clear and free of obstructions or

impediments. Nor Pac cannot assume responsibility to make access to the work site clean, clear and free of obstruction or impediments. Nor Pac cannot assume responsibility for moving materials, goods or property of the owner for fear that it may result in liability. As a general rule, Nor Pac does not recommend its employees disregard a customer's request.

Code Enforcer Response to Nor Pac Answer: Should be guaranteed by warranty.

QUESTION: Does Nor Pac condone disregard for customers safety, comfort, and maximum performance of their equipment installations on customer behalf. Please explain expected performance from equipment and installers.

ANSWER: Objection; Argumentative, vague, ambiguous, and unintelligible.

Code Enforcer Response: Proper answer would be to assure the homeowner of warranty of their installations as per contract.

QUESTION: Are you familiar with the Sheet Metal Industry Inspection Service? If so, please explain their foundation, requirements and recognition, if any, from various municipal inspectors. If not, please explain with specifity where your company gets its performance requirement data.

ANSWER: SMACNA and SAHRAE, the Uniform Mechanical and Plumbing Code, training, experience, conditions and manufacture's recommendations.

Code Enforcers Response: In King County, Washington; Codes must be applied from 1. King County Plumbing Department; 2. Washington State Electrical Department; 3. King County Development and Environmental Services for Mechanical Permits and Inspections.

QUESTION: Please explain why it is not mandatory or not advisable to obtain permits for replacements of furnaces and/or change over, from electric to gas furnaces or vice versa.

ANSWER: Objection. Vague and ambiguous; not defined as to time or locale. Without waiving the foregoing objection, we do what is required by the particular code in force in the municipality where the work is being performed. Furthermore, we will also omit permits from our quotes advising the customer it is their responsibility to obtain the required or necessary permits.

Code Enforcers Response: The three code departments all demand that a permit shall be obtained from each before the work is commenced and inspections complete and approved prior to activating the new installations. The permits are the responsibility of the contractor doing the installation and not available to the homeowner.

QUESTION: Will you please explain with explicity, the length of time anticipated and the cost of obtaining Furnace Installment or Changeover Permits, in King County?

ANSWER: It depends from time to time. Generally speaking, a permit can be obtained within days at a cost of approximately $75.00.

Code Enforcers Answer: for 1993

(a) King County Plumbing ..... $57.00.
(b) Washington State Electrical Dept. $40.00.
(c) .....King County DDES $166.50.
Total=$263.50

QUESTION: Please afford a detailed explanation of how long you anticipated the fiberglass, mold, and soot particles, deposited by Nor Pac employees, to

circulate around in (Tullis) house before it would escape from the furniture, clothing, bedding, carpeting and indoor air into the air returns located in the hallway ceilings, to go through the air-purifier to remove the contaminants? Also show a factory and/or engineering blue print for this to be a recommended and perfected procedure.

ANSWER: Objection, argumentative, compound, confusing, misleading and assumes facts not in evidence.

Code Enforcer Response: Nor Pac Warranty should have sufficed.

QUESTION: Does Nor Pac recommend to its employees to disregard furnace factory statements of fiberglass being termed as carcinogens by the State of California? If so, please state with specifity why your employees should ignore this warning including why you afford customers with maintenance manuals detailing these dangers.

ANSWER: Objection, unintelligible.

Code Enforcers Response: Warranty should safeguard customers from unnecessary endangerment.

QUESTION: In your list of primary witnesses, you mentioned three individuals, namely Kim Archer, Dennis Devlin, Al Noah, along with: other possible employees "unnamed" of Nor Pac whom may have been present at the defendants residence, and may have participated in the installation, repairs or call backs.

Please provide the following:

(a) A curriculum vitae or resume;
(b) A summary of their opinions;
(c) The basis for their opinions
(d) A list of the documentation or materials they rely upon in formulating their opinions.

ANSWER:

(a) With respect to the named employees, see answer to number 1 and number 2. Other than that, no resume or curriculum vitae exists.

(b) Undetermined at this time if, in fact, any opinions will be requested from these individuals.

(c) Those individuals that will be providing opinions will base their opinions on their training and experience, the required mechanical, plumbing, and health codes, as well as SMACNA regulations.

(d) In part, defendants' video, discovery responses, depositions, job documents, contract, photographs, conversations, statements and all attached material by the defendants in this litigation.

(Each denial answer not signed by Attorney);

Answers and responses dated this 1 day of July,1997 "s/ Creighton S. Hutchins" Attorney answering interrogatories, Attorney for Plaintiffs, State of Washington, County of King.

Witness actually answering interrogatories, being first duly sworn upon oath, deposes and says; That "s/ Gary Groetz" is the officer in the above entitled action, has read the answers and responses to the within and foregoing interrogatories and requests for production, knows the contents thereof and believes the same to be true. "s/ Larry Goetz Sr." Subscribed and Sworn to before me this 16[11 (?) day of June by "s/ Larry Goetz Sr." . "s/ Kimberly D. Archer" Notary Public in and for the State of Washington. My appointment expires 9/10/00 Registration of compliance with CR 26(g) Space for: Unsigned Name of Creighton S. Hutchins WSBA 8456 Attorney for Plaintiffs (only Signed at top).

ADMINISTRATIVE AUTHORITIES

King County
Department of Development
And Environmental Services (DDES)
900 Oaksdale Avenue Southwest
Renton, Wa. 98055-1219

July 27, 1997

Mr. Clinton M. Tullis
16300-184th ave. S.E.
Renton, Wa. 98058-0903

Dear Mr. Tullis

It was a pleasure meeting with you last week regarding your furnace installation.
You had listed several questions pertaining to King County Code requirements and change in the code from 1993 to 1997. The 1991 Uniform Mechanical Code (UMC) was in effect in 1993 and the 1994 UMC is applicable to current work so we have listed the differences between these codes.
Attached are our responses. (BELOW)
You should contact King County Health Department regarding plumbing and gas piping issues. Please contact the electrical Division of the State Department of Labor and Industry regarding electrical work.
Please do not hesitate to contact me at (206) 296-6750 should you have any additional questions.

Sincerely,

"s / Chris Ricketts", Supervisor, Building Plan Review.
cc. Ramon Mariano, Mechanical Plans Examiner

1991-UMC vs. 1994 UMC

1. Sealing of joints for furnace ducts:
   (No Changes)
2. Installation of Ducts:
   Ducts – 1994 UMC added "fire resistive coatings-ducts shall be located so as to Maintain the minimum required thickness of fire resistive materials applied to structural members to provide the required fire resistive rating" per section 603.1.1.
3. Earthquake Straps:
   (No Changes)- "Appliances designed to be fixed in position shall be securely fastened in place. Supports for appliances shall be designed and constructed to sustain vertical and horizontal loads within the stress limitations specified in the building code." Section 304.4.
4. Vehicular Protection:
   (No Changes)- Appliances installed in garages, warehouses or other areas where they may be subject to mechanical damage shall be suitably guarded against such damage by being installed behind protective barrier or by being elevated or located out of the normal path of vehicles". Section 308.1.

Comment: Heating and Cooling equipment (water heaters included) located in a garage and which generate a glow, spark or flame capable of igniting flammable vapors shall be installed with the pilot burners or heating elements and switches at least 18

inches above floor level. Section 308.2.

5. Double Exhaust Pipe (Gas Vent?):

(No Changes)1991 Table 9-8 vent selection chart

1994 Table 8-C vent selection chart

Under column 1 Type "B" gas vent is required for all listed gas appliances with draft hoods such as furnaces and water heaters.

Type "B" vent is double wall.

Connector Located in Cold Areas

Connector shall be listed type "B" or type "C" or be provided with equivalent means of insulation, per section 815.1.7, UMC.

6. Heat Vent To Garage:

(No Change) "Fire dampers need not be installed in air ducts passing through the wall, floor, or ceiling separating a group "

"R-3 " from a Group "U" occupancy providing such ducts within the group "U" occupancy are constructed of steel having a thickness not less than No. 26 ga. And have no openings into the group "U" occupancy.

Insulation: Minimum duct insulation R-8 for ducts located in garage, per table 5-11,W.S.E.C.

7. Cost Difference:

1993	Base Fee:	109.00
	Furnace up to 100 BTU	57.50
	Total	166.50
1994	Base Fee.....	114.00
	Furnace up to 100 BTU	60.40
	Total	174.00

8. Blocked Sewer Access:

Section 406 & 1107 of the 1991 UPC-requires Clean-out to be readily accessible to allow cleaning for which it is intended.

UNIVERSAL PLUMBING CODE

Water distribution Section 1007

(c) Any water system provided with a pressure regulating device or check valve at its source or any water system containing storage water heating equipment shall be provided with an approved, listed, adequately sized pressure relief valve.

(d) Each pressure relief valve shall be an approved automatic type with drain, and each such relief valve shall be set at a pressure of 150 pounds per square inch (10333.5kPa.).

(e) Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC or PB with fittings which will not reduce the internal bore of the pipe or tubing (straight lengths as opposed to coils) and shall extend from the valve to the outside of the building with the end of the pipe not more than two (2) feet nor less than six (6) inches above the ground and pointing downward. No part of such drain pipe shall be trapped and the terminal end of the drain pipe shall not be threaded.

Section 1303- Permit:

It shall be unlawful for any person to install, remove, or replace, or cause to be installed , removed or replaced any water heater without first obtaining a permit from the Administrative Authority to do so.

Final water heater inspection: This inspection Shall be made after all work authorized by the

permit has been installed. The administrative Authority will make inspection as he deems necessary to assure himself that the work has been installed in accord with the intent of this Code. No equipment or part thereof shall be covered or concealed until the same has been inspected and approved by the Administrative Authority.

Section 1305-Gas Fired Water Heater Approval Requirements:

(c) Gas storage-Type water heaters and hot water boilers shall be provided with, in addition to the primary temperature controls, an over temperature safety protection device constructed, listed, and installed in accordance with nationally recognized applicable standards for such devices.

Section 1310 : Protection from damage:

(c) All water heaters installed in areas where they are subjected to mechanical damage; shall be suitably guarded against such damage by being installed behind adequate barriers or by being elevated or located out of normal path of a vehicle using any such a garage.

King County Department of Public Health.

King County still uses the 1991 UPC Codes

"s/ George Wells" (East Side Senior Inspector)

State of Washington Department of Labor and Industries; Electric Section.

August 4, 1997 Bellevue, Washington
From Dick Gilcrist, Electric Section Supervisor.

Subject: NEC in 1993 and 1996

1. QUESTION: Would the electric code of 1993, permit a 220 volt line to be taken loose at one end and be left laying loosely in the attic area?
ANSWER: I don't know of any electric code that would permit such an installation. This type of violation would not be permitted under RCW 19.28.210. An unsafe condition would be present For persons and property, which could lead to an electrocution or fire if energized.
2. QUESTION: Would a page be available for the States expectation of removal of electric lines from a residence by a contractor?
ANSWER: The electric license law doesn't address a requirement per RCW 19.28, that a contractor would have to be licensed as an Electric Contractor to remove electric lines unless they were coming from an energized source; Then the work has to be done by a qualified person. Article 100 of the NEC addresses the definition of qualified
3. QUESTION: Would you please state the difference in the 1996 codes versus the 1993?
ANSWER There are quite a number of changes in the 1996 versus the 1993. The code changes every three years.
4. QUESTION: Would you permit the electric junction box to be partially blocked by a black iron "Propane

Gas Line" in 1993 or 1997?

ANSWER: Article 370-29 of the 1993 code requires that the wiring in "J" Boxes can be rendered accessible without removing any part of the building or other apparatus associated with the building.

5. QUESTION: Would the 115 volt circuit be allowed to dangle loosely around the furnace installation, per 1993 or 1997 code?

ANSWER: NEC 350-18 requires supports for metal flexible conduit within 12 inches of each junction box and then every 3 feet. Also, NEC 340-12 requires support for electric metal tubing within 3 feet of a "J" Box and then every 10 feet thereafter.

6. QUESTION: During the year of 1993; Would the flexible metal conduit ends, that were being used as a ground return path, between the furnace and the electric junction box, be allowed to dangle on the internal wiring at each end?

ANSWER: NEC 350-14 addresses grounding required for flexible metal conduit. The flexible metal conduit is required to be connected at the furnace and at the "J" Box, in order to have a complete ground return path and the conditions of article 350-5 shall also be met to use the flex line as a grounding means.

7. QUESTION: What is the expectations of a contractor in the two respective years, as to electric installations?

ANSWER: A licensed electric contractor has an administrator assigned to the company. The administrator is required per RCW 19.28.125 to be knowledgeable of the RCW, NEC, WAC (Washington Administrative Code) for installation of electrical conductors. Also, (an electrical permit is required) per WAC 296.46.495 or chapter 19.28. RCW, for an

inspection of the electrical installation when installing or altering circuits, services or electrical equipment. Inspections shall not be made, equipment energized, nor services connected, unless an electrical permit is completely and legibly filled out and readily available. Each person, firm, partnership, corporation or other entity shall furnish an electrical permit for the installation, alteration, or other electrical work performed or to be performed by that entity.

"s/ Dick Gilcrist"

Dorothy J. Gray
Notary

Dick Gilcrist - Elec. Section Supervisor

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Department of Labor & Industries Public

616-120th ave. N.E. Suite C 201 Feb. 25, 2001
(425) 990-1420 State of Washington